

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
RAYMOND NG,  
  
Defendant.

CASE NO. CR20-0172-JCC  
  
ORDER

This matter comes before the Court on Defendant Raymond Ng's motion to revoke United States Magistrate Judge Brian Tsuchida's detention order (Dkt. No. 33) and the Government's motion for leave to file an overlength brief (Dkt. No. 40). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby DENIES Defendant's motion to revoke the detention order (Dkt. No. 33) and GRANTS the Government's motion for leave (Dkt. No. 40) for the reasons explained herein.

**I. BACKGROUND**

Defendant is currently detained pending trial on a charge of conspiracy to manufacture and distribute marijuana in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), 841(b)(1)(B), and 846. (Dkt. Nos. 1, 18, 26.) The Government alleges that Defendant facilitated the manufacturing and distribution of large quantities of illicit marijuana throughout the country by financing grow

1 houses and using his business, Skyway General Contractor, to employ individuals involved in  
2 the operation and to launder the illicit proceeds. (*See generally* Dkt. No. 41 at 2–9.) Defendant  
3 moves for revocation of Judge Tsuchida’s detention order pursuant to 18 U.S.C. § 3145(b). (Dkt.  
4 No. 33.) Defendant asserts that the Government fails to meet its burden of persuasion that no  
5 condition or combination of conditions would reasonably assure Defendant’s appearance and the  
6 safety of the community. (*Id.* at 6–9.)

## 7 **II. DISCUSSION**

8 The Court reviews a magistrate judge’s order detaining a defendant before trial *de novo*.  
9 *United States v. Koenig*, 912 F.2d 1190, 1193 (9th Cir. 1990). Thus, the Court makes its own  
10 factual findings and reaches an independent conclusion about whether a defendant should be  
11 detained, without deference to the magistrate judge’s decision. *Id.* A defendant may be detained  
12 before trial only if “no condition or combination of conditions will reasonably assure the  
13 [defendant’s] appearance . . . and the safety of any other person and the community.” 18 U.S.C.  
14 § 3142(e)(1). The Government bears the burden of proving by a preponderance of the evidence  
15 that no conditions will reasonably assure the defendant’s appearance and by clear and convincing  
16 evidence that no conditions will reasonably assure the safety of the community. *United States v.*  
17 *Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985). When analyzing whether conditions can  
18 reasonably assure the defendant’s appearance and the safety of the community, the Court must  
19 consider (1) the nature and circumstances of the offense charged, (2) the weight of the evidence,  
20 (3) the history and characteristics of the defendant, and (4) the danger to the community the  
21 defendant would pose if released. 18 U.S.C. § 3142(g).

22 If, as is the case here, the Court finds probable cause to believe the defendant committed  
23 a drug offense with a maximum term of imprisonment of at least ten years, there is a rebuttable  
24 presumption the defendant should be detained. *See* 18 U.S.C. § 3142(e)(3)(A). This presumption  
25 “shifts a burden of production to the defendant,” *United States v. Hir*, 517 F.3d 1081, 1086 (9th  
26 Cir. 2008), which requires the defendant to produce “some evidence” that there are conditions

1 that would reasonably assure his or her appearance and the community's safety, *United States v.*  
2 *Jessup*, 757 F.2d 378, 384 (1st Cir. 1985). "The burden of production is not a heavy one to meet"  
3 and "[a]ny evidence favorable to a defendant that comes within a category listed in § 3142(g) can  
4 affect the operation of . . . the presumption[]." *United States v. Dominguez*, 783 F.2d 702, 707  
5 (7th Cir. 1986). Once a defendant produces some evidence to rebut the presumption, "the  
6 presumption 'remains in the case as an evidentiary finding militating against release, to be  
7 weighed along with other evidence relevant to factors listed in § 3142(g).'" *Hir*, 517 F.3d at  
8 1086 (quoting *Dominguez*, 783 F.2d at 707). Ultimately, "the burden of persuasion remains with  
9 the [G]overnment." *Hir*, 517 F.3d at 1086.

10 For the reasons described below, the Court finds that no combination of conditions would  
11 reasonably assure Defendant's appearance and, therefore, continued detention is warranted.

12 First, if Defendant were convicted, he would be subject a minimum sentence of 10 years.  
13 *See* 21 U.S.C. §§ 841(b)(1)(A), 841(b)(1)(B). Defendant has a strong incentive to flee, despite  
14 the significant surety bond that he and his family are willing to offer. This is particularly true  
15 given that the evidence against Defendant is strong enough for him to believe there is a  
16 reasonable chance he would, in fact, be convicted. He has owned numerous alleged grow houses,  
17 allegedly financed the purchase of other grow houses, and been observed at even more alleged  
18 grow houses. (Dkt. No. 41 at 2–8.) Seizures from these properties have been frequent and  
19 significant. They include 533 plants in June 2017; 497 plants in December 2017; 1,619 plants in  
20 April 2019; 628 plants in November 2019; 687 plants in January 2020; and 1,706 plants in  
21 February 2020. (*Id.* at 4–8.) This is in addition to irrigation, lighting and air filtration systems  
22 found at other properties not containing plants associated with Defendant. (*Id.* at 4.) The  
23 Government further alleges that Defendant used his business to launder illicit funds and pay  
24 wages to individuals involved in the manufacturing and distribution of marijuana, some of whom  
25 have pleaded guilty to the crime. (*Id.* at 2, 3, 6–8, 13.)

26 Second, Defendant has displayed little regard for the law. While he has no criminal

1 convictions, he continued to allegedly facilitate the manufacturing and distribution of illicit  
2 marijuana from 2017 through 2020, even though law enforcement repeatedly searched properties  
3 he was associated with and seized significant quantities of marijuana during those searches. (*Id.*  
4 at 13.) In addition, Defendant has demonstrated a willingness to deceive government authorities.  
5 This includes misleading authorities regarding his relationship with his co-defendant and  
6 seemingly intentionally obscuring his interest in some of the alleged grow houses. (*Id.* at 13.)

7 Third, Defendant has access to substantial resources necessary to evade law enforcement  
8 should he decide to flee. This includes the cash generated through his alleged activities and an  
9 alleged network of criminal associates throughout the United States. (*Id.* at 14–15.) Moreover,  
10 Defendant and his co-defendant were born in China, and Defendant has visited the country many  
11 times since then. (*Id.* at 14.) His considerable connections to the country make it a viable  
12 location for him to settle, should he choose to flee.

13 Therefore, the factors articulated in 18 U.S.C. § 3142(g) counsel against release. No  
14 condition will reasonably assure Defendant's appearance.

15 In addition, the Government seeks permission to file an over-length brief in response to  
16 Defendant's motion (Dkt. No. 40). The Government seeks an additional five pages over what is  
17 provided by the Local Rules. (*Id.* at 2.) The Court finds good cause for the additional pages.  
18 Defendant's financial dealings, and the efforts he allegedly goes through to obfuscate them, are  
19 significant. (*See generally* Dkt. No. 41.) The additional pages contained in the Government's  
20 brief are helpful in understanding the reach of Defendant's alleged criminal financial dealings.

### 21 **III. CONCLUSION**

22 For the foregoing reasons, Defendant's motion to revoke Judge Tsuchida's detention  
23 order (Dkt. No. 33) is DENIED and the Government's motion for leave to file an over-length  
24 brief (Dkt. No. 40) is GRANTED.

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1 DATED this 23rd day of November 2020.

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5 John C. Coughenour  
6 UNITED STATES DISTRICT JUDGE  
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